

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JO ANN HOWARD AND ASSOCIATES, P.C.,
SPECIAL DEPUTY RECEIVER OF LINCOLN
MEMORIAL LIFE INSURANCE COMPANY,
MEMORIAL SERVICE LIFE INSURANCE
COMPANY, AND NATIONAL
PREARRANGED SERVICES, INC.; ET AL.,

Plaintiffs,

V.

J. DOUGLAS CASSITY; RANDALL K. SUTTON; BRENT D. CASSITY; J. TYLER CASSITY; RHONDA L. CASSITY; ET AL.,

Defendants.

Case No. 09-CV-1252-ERW

**STIPULATED VOLUNTARY DISMISSAL WITHOUT PREJUDICE
OF COMPLAINT AGAINST DEFENDANT MICHAEL R. BUTLER**

Plaintiffs and Defendant Michael R. Butler, under Fed. R. Civ. P. 41(a)(2), request an Order of the Court approving dismissal *without* prejudice of Plaintiffs' claims against Defendant Michael R. Butler, as contained in Plaintiffs' Third Amended Complaint. Defendant Butler has not pleaded a counterclaim or filed a motion for summary judgment. Defendant Butler and Plaintiffs' counsel agree to this dismissal *without* prejudice on the conditions set forth below:

1. Defendant Butler shall voluntarily appear at depositions, hearings, and trial in above-captioned case. Specifically, Defendant Butler shall:
 - a. accept service by mail or electronic transmission of notices or subpoenas issued by Plaintiffs for testimony at depositions, hearings, or trials;
 - b. with respect to such notices and subpoenas, waive the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, provided Plaintiffs reimburse Defendant Butler for travel and lodging at a reasonable rate; and

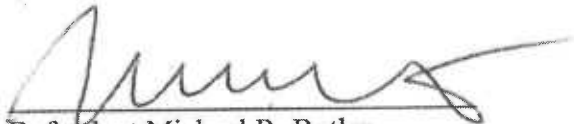
c. consent to personal jurisdiction in any United States District Court for purposes of enforcing any such subpoena.

2. Plaintiffs' dismissal *without* prejudice against Defendant Butler shall not affect Plaintiffs' claims contained in Plaintiffs' Third Amended Complaint against the remaining defendants.

3. Plaintiffs and Defendant Butler stipulate and agree to this dismissal *without* prejudice.

**DEFENDANT MICHAEL R. BUTLER'S
CONSENT TO DISMISSAL *WITHOUT* PREJUDICE**

Defendant Butler consents to, and requests the Court to enter an order, granting this stipulated dismissal *without* prejudice.


Defendant Michael R. Butler

David Luce
Email: dhl@carmodymacdonald.com
Carmody MacDonald P.C.
120 S. Central Ave., Suite 1800
St. Louis, Missouri 63105
Attorney for Defendant Michael R. Butler

- c. consent to personal jurisdiction in any United States District Court for purposes of enforcing any such subpoena.
2. Plaintiffs' dismissal *without* prejudice against Defendant Butler shall not affect Plaintiffs' claims contained in Plaintiffs' Third Amended Complaint against the remaining defendants.
3. Plaintiffs and Defendant Butler stipulate and agree to this dismissal *without* prejudice.

**DEFENDANT MICHAEL R. BUTLER'S
CONSENT TO DISMISSAL *WITHOUT* PREJUDICE**

Defendant Butler consents to, and requests the Court to enter an order, granting this stipulated dismissal *without* prejudice.

Defendant Michael R. Butler

s/ David Luce
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Attorney for Defendant Michael R. Butler

Dated this 26th day of February, 2014.

Respectfully submitted,

s/ Wendy B. Fisher

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Attorneys for Plaintiffs Jo Ann Howard and Associates,
P.C., in its capacity as Special Deputy Receiver of Lincoln
Memorial Life Insurance Company, Memorial Service Life
Insurance Company, and National Prearranged Services,
Inc.; the National Organization of Life and Health
Insurance Guaranty Associations; the Missouri Life &
Health Insurance Guaranty Association; the Texas Life &
Health Insurance Guaranty Association; the Illinois Life &
Health Insurance Guaranty Association; the Kansas Life &
Health Insurance Guaranty Association; Oklahoma Life &
Health Insurance Guaranty Association; the Kentucky Life
& Health Insurance Guaranty Association; and the
Arkansas Life & Health Insurance Guaranty Association

CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2014, the foregoing **STIPULATED VOLUNTARY DISMISSAL WITHOUT PREJUDICE OF COMPLAINT AGAINST DEFENDANT MICHAEL R. BUTLER** was filed electronically with the Clerk of Court and served by operation of the Court's electronic filing system upon all counsel of record in this case participating in Electronic Case Filing.

I hereby further certify that on February 26, 2014, the foregoing was sent by United States Postal Service or by electronic means, as indicated below, to the following non-participants in Electronic Case Filing:

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s/ Wendy B. Fisher

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